



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2007 APR 11 PM 4:55

re patent  
application of:  
Thomas A. Zdeblick et al.

MAIL STOP 16

Serial No. 10/624,981

Atty Docket No.:  
MSDI-168/PC566.02

Filed: July 22, 2003

SPINAL IMPLANTS AND TOOL FOR  
INSERTION AND REVISION

April 3, 2007

**REQUEST FOR REFUND OF FEES**

MAIL STOP 16  
Director of the U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

On August 15, 2006, a Final Office Action was issued with respect to the above identified patent application, a copy of which is enclosed herewith as Exhibit A. The two month deadline for filing an early response to the Final Office Action in accordance with MPEP §706.07(f)(A) was October 15, 2006, which fell on a Sunday. Pursuant to 37 CFR

I hereby certify that this correspondence is  
being facsimile transmitted to the United States  
Patent and Trademark Office at 571-273-8300  
on:

April 3, 2007  
Date of Transmission

Kevin J. Huser  
Name of Registered Representative

  
Signature

April 3, 2007  
Date of Signature

§1.7(a), the Applicants filed a response to the Final Office Action on Monday, October 16, 2006, a copy of which is enclosed herewith as Exhibit B. Accordingly, the shortened statutory period for reply should have expired on January 11, 2007, the mailing date of the Advisory Action, which occurred more than three months after the Final Office Action issued. A copy of the Advisory Action is enclosed herewith as Exhibit C.

The one month deadline for responding after the Advisory Action issued was February 11, 2007, which fell on a Sunday. Pursuant to 37 CFR §1.7(a), the Applicants filed a Preliminary Amendment with a Request for Continued Examination in response to the Advisory Action on Monday, February 12, 2007. A petition for a one month extension of time and the requisite fee in the amount of \$120.00 were also submitted on February 12, 2007. However, on February 26, 2007, Deposit Account No. 12-2424 was improperly charged \$900.00 to pay the remainder of the \$1020.00 fee for a three month extension of time.

Considering that the shortened statutory period for reply to the Final Office Action ended on January 11, 2007 when the Advisory Action was issued, the fee in the amount of \$120.00 accompanying the Applicants Response on February 12, 2007 was adequate. Accordingly, the \$900.00 charge for the three month extension fee was improper and it is hereby respectfully requested that the \$900.00 fee be credited to Deposit Account No. 12-2424 pursuant to 37 CFR §1.26.

Respectfully submitted,

By: 

Kevin J. Huser  
Reg. No. 56,379  
Krieg DeVault LLP  
One Indiana Square  
Suite 2800  
Indianapolis, Indiana 46204-2079  
(317) 238-6349